

Remarks

Claims 15 and 20-27 are pending in the application. Claims 16-19 have been cancelled. Claims 1-14 have been cancelled in a previous amendment. Claim 15 is presently amended. Claims 22-27 are new.

Claim Rejections – 35 USC § 102

Claims 15, 16, 18, 19 and 21 have been rejected as allegedly being anticipated by Hoogstad. Reconsideration is respectfully requested by the Examiner based on the following amendments and arguments .

Hoogstad discloses a process for the preparation of a concentrated tea extract to be used in the preparation of an instant tea. Hoogstad teaches a process having a first extraction of black tea leaves with water, followed by the separation of the first extract from the tea leaves, and a subsequent second extraction of the tea leaves with water. Ultimately, both extracts are to be combined in order to produce the desired concentrated tea extract. The combination of the two extracts is essential to Hoogstad since it ensures that a maximum of flavor and aromas has been extracted and collected.

By direct contrast, the method of the present invention discloses that after the first extraction or brew, the first brew is not only separated from the tea leaves but is bluntly discarded. It is submitted that the term « discarding » is related to verb « to discard », which is defined by the Merriam Webster's Collegiate Dictionary as having the following meaning : «to get rid of, especially as useless or unwanted». Therefore, it is submitted that the discarding of the first brew as claimed in step b) of independent claims 15, 22 and 25 is preventing the combination of that first brew with any subsequent brew, thus rendering the methods of the present application not anticipated by the Hoogstad reference.

In addition, Hoogstad exclusively exemplify his process with black tea, while the tea leaves used in the methods of the present application are green tea leaves. This is of crucial importance since black tea leaves contain close to no epigallocatechin gallate at all, while this catechin is found in substantive concentration in green tea leaves. Therefore, and since Hoogstad never mentions any catechin, it is submitted that the process disclosed by Hoogstad

can not anticipate the methods of the present application since the black tea leaves would be of no use in trying to obtain an aqueous catechin fraction enriched in epigallocatechin gallate. Since not every types of tea leaves would be applicable to the methods of the present invention, and since Hoogstad does not provide any kind of directions to what types of tea leaves could be appropriate, it is therefore submitted that the Hoogstad reference can not be found to anticipate claims 15, 16, 18, 19 and 21.

New claims 22-24 are based on previous claims 15, 20 and 21 respectively, with the expression «consisting essentially of the steps of» replacing the expression «comprising the steps of ». New claims 25-27 are also based on previous claims 15, 20 and 21 respectively, with the expression «consisting of the steps of» replacing the expression «comprising the steps of ». It is submitted that such language further prevent the combination of the first and second brew of the tea leaves. It is therefore submitted that Hoogstad does not anticipated new claims 22-24 nor new claims 25-27.

Claim Rejections – 35 USC § 103

Claims 17 and 20 have been rejected by the Examiner as allegedly being obvious over the reference by Hoogstad. Reconsideration by the Examiner is respectfully requested based on the following arguments.

As mentioned previously, Hoogstad never mentions catechins in his reference. Rather, he focuses on the quality of the tea extract as reflected by the taste and aromas of the extract obtained by his process. Thus, his process exclusively aims at the concentration of various component of the tea leaves that are providing for flavors and aromas. Nowhere does Hoogstad mentions or suggest the necessity of removing any components extracted from the tea leaves.

By direct contrast, the methods of the present application are directed toward the separation and isolation of specific molecules from green tea leaves, first by pre-treating the green tea leaves with a first brew at a lower temperature to remove and get rid of the unwanted components (i.e. epigallocatechin), followed by the extraction of the desired type of

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catechin (i.e. epigallocatechin gallate) from the pre-treated green tea leaves, thus producing an aqueous catechin fraction enriched in epigallocatechin gallate.

It is therefore submitted that the skilled person in the art would have found no motivation or direction in the Hoogstad reference for trying to obtain a fraction of tea leaves enriched in a specific type of catechin by reading the Hoogstad reference. Moreover, the exemplification made by Hoogstad of his process with black tea leaves would have misdirected the skilled man in the art trying to obtain an aqueous catechin fraction enriched in epigallocatechin gallate since black tea leaves contain almost none of that specific catechin.

Further, should the skilled person have nonetheless tried to obtain such an aqueous fraction enriched in epigallocatechin gallate with the process disclosed by Hoogstad, he would have had to completely discard the first brew, which contains a high concentration of epigallocatechin and almost no epigallocatechin gallate as taught in the present application, in order not to dilute the epigallocatechin gallate quantities obtained from the second brew. However, there are no direction or suggestions in the Hoogstad reference for discarding the first brew, or for not combining the first brew with the second brew. In fact, there are absolutely no reason mentioned, suggested or hinted at in the Hoogstad reference to motivate the skilled person to stop the process before the combination of the two brews.

Therefore, it is submitted that the Hoogstad reference can not be found to render obvious the method of the present application as claimed in amended claims 15, 20 and 21, and in new claims 22-27.

It is therefore submitted that the claims are in condition for allowance. Reconsideration of the examiner rejections is respectfully requested, and allowance of claims 15 and 20-27 on their merits and at an early date is earnestly solicited.

No new matter has been introduced by way of the present amendment.

A fee of \$65 is believed to be required by the present response for a one-month extension of time.

No additional fees are believed to be required by the present response. However, should this be an error, the Commissioner is further authorized to charge any additional fees

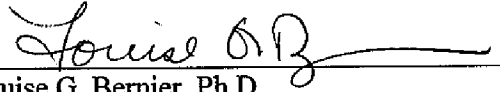
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which may be required for underpayment, or to credit any overpayment, to Deposit Account # 19-5113.

In the event that there are any questions concerning this amendment, or the application in general, the Examiner is respectfully urged to telephone the undersigned so that prosecution of this application may be expedited.

Respectfully,

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Date